HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY ADMINISTRATIVE RULES REVIEW

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2006 Legislative Session

ENVIRONMENT, ENERGY & TECHNOLOGY

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.05.01 - RULES OF THE BOARD OF DRINKING WATER AND WASTEWATER PROFESSIONALS

DOCKET NO. 24-0501-0501

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2006 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 54-2406, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 5, 2005, Idaho Administrative Bulletin, Vol. 05-10, pages 461 through 467.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-2407, Idaho Code. Reduces endorsement, renewal and original license fees from $60 to $45.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: There is no impact on general funds. This change would reduce the cash balance in dedicated funds for the Board by a total of approximately $43,000 per year.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 14th day of November, 2005.

Rayola Jacobsen
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste. 220
Boise, ID 83702
(208) 334-3233
(208) 334-3945 fax

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 54-2406, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2005.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Update contact information for the Board, reduce endorsement, renewal and original license fees from $60 to $45, clarify requirements for license, clarify continuing education requirements, clarify reinstatement or renewal of licenses for operator-in-training, backflow assembly tester, and wastewater land application.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

Reduces endorsement, renewal and original license fees from $60 to $45.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking:

There is no impact on general funds. This change would reduce the cash balance in dedicated funds for the Board by a total of approximately $43,000 per year.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes are not controversial.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2005.

DATED this 23rd day of August, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

005. ADDRESS OF IDAHO BOARD OF DRINKING WATER AND WASTEWATER PROFESSIONALS (RULE 5).
The office of the Board of Drinking Water and Wastewater Professionals is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702-5642. The phone number of the Board is (208) 334-3233. The Board's FAX number is (208) 334-3945. The Board's e-mail address is ~~*wwp@ibol.state.id.us*~~ wwp@ibol.idaho.gov. The Board's official web site is at https://www.ibol.idaho.gov/wwp.htm. ~~*(3-24-05)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

200. FEES FOR EXAMINATION AND LICENSURE (RULE 200).
The fees for each license type and classification shall be as follows: (3-24-05)

01. Application Fee. Application fee - twenty-five dollars ($25). (3-24-05)

02. Examination Fee. The examination fees shall be those fees charged by the Association of Boards of Certification (ABC) or other approved examination provider. (3-24-05)

03. Endorsement Fee. Endorsement fee - s~~*ixty*~~ forty-five dollars ($~~*60*~~45). ~~*(3-24-05)*~~( )

04. Original License Fee. Original license fee - s~~*ixty*~~ forty-five dollars ($~~*60*~~45). ~~*(3-24-05)*~~( )

05. Annual Renewal Fee. Annual renewal fee - ~~*sixty*~~ forty-five dollars ($~~*60*~~45). ~~*(3-24-05)*~~( )

06. Reinstatement Fees. Reinstatement fee - twenty-five dollars ($25). (3-24-05)

07. Refund of Fees. No refund of fees shall be made to any person who has paid such fees for application, examination, reexamination, or reinstatement of a license. (3-24-05)

(BREAK IN CONTINUITY OF SECTIONS)

300. REQUIREMENTS FOR LICENSE (RULE 300).
Applicants shall submit an application together with the required fees and such documentation as is required. (3-24-05)

01. Examination Requirement. Applicants must pass a written examination for each individual classification in each type of licensure with a minimum score of seventy percent (70%)~~, *except that backflow assembly testers must obtain a minimum score of seventy-five percent (75%) on both the theory and practical examination*~~. For those classifications of Class II through IV, successful completion of the examinations from the immediate lower type and classification shall be a prerequisite to examination eligibility for the next higher classification of the same type, except that applicants for wastewater collection operator or wastewater laboratory analyst or drinking water distribution operator licenses may apply for any classification examination for which they hold the required education and experience. ~~*(3-24-05)*~~( )

a. The examination will reflect different levels of knowledge, ability and judgment required for the established license type and class. The Board will administer examinations at such times and places as the Board may determine. (3-24-05)

b. The examination for all types and classes of ~~*drinking water and wastewater*~~ licensure shall be validated and provided by the Association of Boards of Certification (ABC). ~~*(3-24-05)*~~( )

~~***c.*** *The examination for backflow assembly testers shall be that practical and theory examination approved by the Board.* *(3-24-05)*~~

~~***d.*** *The examination for wastewater land application operators shall be that examination approved by the Board.* *(3-24-05)*~~

~~**e**~~**c.** Applicants who fail an examination must make application to retake the same type and class examination and pay the required examination fees prior to retaking the examination. (3-24-05)

02. Education and Experience Requirements. Only actual verified on-site operating experience at a treatment, distribution or collection system will be acceptable. (3-24-05)

a. Each applicant for an Operator-In-Training License must have a high school diploma or GED and pass a~~*n Operator-In-Training*~~ Class I exam. ~~*(3-24-05)*~~( )

b. To qualify for a Very Small Water System license an operator must have a high school diploma or GED and six (6) months of acceptable operator-in-training experience at a water distribution system. (3-24-05)

c. To qualify for a Class I license an applicant must have a high school diploma or GED and one (1) year of acceptable experience at a Class I or higher system. (3-24-05)

d. To qualify for a Class II treatment or lab analyst license an applicant must have a high school diploma or GED and three (3) years of acceptable Class I operating experience at a Class I or higher system. (3-24-05)

e. To qualify for a Class III treatment or lab analyst license an applicant must have a high school diploma or GED and two (2) years of post high school education in the environmental

control field, engineering or related science; and four (4) years of acceptable Class II operating experience of a Class II or higher system, including two (2) years of experience in daily on-site charge, supervision of personnel, or management of a major segment of a system in the same or next lower class. (3-24-05)

f. To qualify for a Class IV treatment or lab analyst license an applicant must have a high school diploma or GED; and four (4) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable Class III operating experience at a Class III or higher system, including two (2) years of experience in daily on-site charge, supervision of personnel, or management of a major segment of a system in the same or next lower class. (3-24-05)

g. To qualify for a Class II collection or distribution license an operator must have a high school diploma or GED and three (3) years of acceptable operating experience at a Class I or higher system. (3-24-05)

h. To qualify for a Class III collection or distribution license an operator must have a high school diploma or GED and two (2) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable operating experience of a Class I or higher system, including two (2) years of experience in daily on-site charge, supervision of personnel, or management of a major segment of a system in the same or next lower class. (3-24-05)

i. To qualify for a Class IV collection or distribution license an operator must have a high school diploma or GED; and four (4) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable operating experience at a Class I or higher system, including two (2) years of experience in daily on-site charge, supervision of personnel, or management of a major segment of a system in the same or next lower class. (3-24-05)

j. To qualify for a lagoon license, an operator must have a high school diploma or GED and twelve (12) months of acceptable supervised operating experience at a Lagoon system. (3-24-05)

k. To qualify for a Wastewater Land Application license, an operator must have a high school diploma or GED, a current wastewater treatment license and minimum six (6) months of hands-on operating experience at a wastewater land application system. The wastewater land application operator that is a responsible charge or substitute responsible charge operator must be licensed at the type and class equal to or greater than the classification of the wastewater system. (3-24-05)

l. To qualify for a backflow assembly tester license, an applicant must have a high school diploma or GED, and shall document successful completion of a board approved backflow assembly tester training program ~~*approved by the board*~~ in compliance with the Cross Connection Control Accepted Procedure and Practice Manual and consisting of ~~*both*~~ theory ~~*and*~~ instruction, practical instruction, and a practical examination in compliance with the USC Test procedures. ~~*(3-24-05)*~~( )

m. To qualify for an original wastewater laboratory analyst license, an applicant must hold a current water treatment, wastewater treatment or lagoon license. (3-24-05)

03. Substituting Education for Experience. Applicants may substitute approved education for operating and responsible charge experience as specified below. (3-24-05)

a. No substitution for operating experience shall be permitted for licensure as a very small system operator or a Class I operator. (3-24-05)

b. For Classes II, III and IV, substitution shall only be allowed for the required experience when fifty percent (50%) of all stated experience (both operating and responsible charge) has been met by actual on-site operating experience. (3-24-05)

c. For Class II, a maximum of one and one-half (1½) years of post high school education in the environmental control field, engineering or related science may be substituted for one and one-half (1½) years of operating experience. (3-24-05)

d. For Class III and IV, a maximum of two (2) years of post high school education in the environmental control field, engineering or related science may be substituted for two (2) years of operating experience; however the applicant must still have one (1) year of responsible charge experience. (3-24-05)

e. Education substituted for operating experience may not be also credited toward the education requirement. (3-24-05)

f. One (1) year of post high school education may be substituted for one (1) year experience up to a maximum of fifty percent (50%) of the required operating or responsible charge experience. (3-24-05)

04. Substituting Experience for Education. Where applicable, approved operating and responsible charge experience may be substituted for education as specified below: (3-24-05)

a. One (1) year of operating experience may be substituted for two (2) years of grade school or one (1) year of high school with no limitation. (3-24-05)

b. For Class III and IV, additional responsible charge experience (that exceeding the two (2) year class requirements) may be substituted for post high school education on a two (2) for one (1) basis: two (2) years additional responsible charge = one (1) year post high school education. (3-24-05)

05. Substituting Experience for Experience. Related experience may be substituted for experience up to one-half (½) of the operating experience requirement for Class II, III and IV. Experience that may be substituted includes but is not limited to the following: (3-24-05)

a. Experience as an environmental or operations consultant; (3-24-05)

b. Experience in an environmental or engineering branch of federal, state, county, or local government; (3-24-05)

c. Experience as a wastewater collection system operator; (3-24-05)

d. Experience as a wastewater treatment plant operator; (3-24-05)

e. Experience as a water distribution system operator and/or manager; (3-24-05)

f. One (1) year of post high school education may be substituted for one (1) year experience up to a maximum of fifty percent (50%) of the required operating or responsible charge experience. (3-24-05)

g. Experience in waste treatment operation and maintenance. (3-24-05)

06. Equivalency Policy. Substitutions for education or experience requirements needed to meet minimum requirements for license will be evaluated upon the following equivalency policies: (3-24-05)

a. High School - High School diploma = GED or equivalent as approved by the board = four (4) years. (3-24-05)

b. College - Thirty-five (35) credits = one (1) year (limited to curricula in environmental engineering, environmental sciences, water/wastewater technology, and/or related fields as determined by the board). (3-24-05)

c. Continuing Education Units (CEU) for operator training courses, seminars, related college courses, and other training activities. Ten (10) classroom hours = one (1) CEU; forty-five (45) CEUs = one (1) year of college. (3-24-05)

(BREAK IN CONTINUITY OF SECTIONS)

500. CONTINUING EDUCATION (RULE 500).
In order to further protect the health, safety and welfare of Idaho's public, and to facilitate the continued competence of persons licensed under the drinking water and wastewater professionals licensing act, the Board has adopted the following rules for continuing education. (3-24-05)

01. Continuing Education Requirement. Each licensee must successfully complete a minimum of six (6) hours (0.6 CEUs) of approved continuing education annually for license renewal, except that backflow assembly testers shall complete an eight (8) hour refresher course every two (2) years for license renewal. Continuing education must be earned in a subject matter ~~*appropriate*~~ relevant to the field in which the license is issued. A licensee holding one (1) or more drinking water license(s) shall be required to meet the annual continuing education requirement for only one license. A licensee holding one (1) or more wastewater license(s) shall be required to meet the annual continuing education requirement for only one license. A licensee holding both drinking water and wastewater class licenses must complete a minimum of six (6) hours annually for the drinking water license plus six (6) hours annually for the wastewater license.

~~*(3-24-05)*~~( )

a. Each licensee shall submit to the Board an annual license renewal application form, together with the required fees, certifying by signed affidavit that compliance with the CE requirements have been met. The Board may conduct such continuing education audits and require verification of attendance as deemed necessary to ensure compliance with the CE requirements. (3-24-05)

b. A licensee shall be considered to have satisfied their CE requirements for the first renewal of their license. (3-24-05)

c. A water or wastewater licensee may carryover a maximum of six (6) hours of continuing education to meet the next year's continuing education requirement. The same hours may not be carried forward more than one (1) renewal cycle. (3-24-05)

d. Continuing Education hours for approved operator training courses, seminars, related college courses, and other training activities may be converted to Continuing Education Units (CEU) as follows: Six (6) classroom hours = point six (0.6) CEU. (3-24-05)

02. Subject Material. The subject material of the continuing education requirement shall be relevant to the license for which the continued education is required~~;~~. ~~*and*~~ ~~*(3-24-05)*~~

~~***a.*** *Approved by the Idaho Department of Environmental Quality; or* *(3-24-05)*~~

~~***b.*** *Sponsored by an accredited college, university; or* *(3-24-05)*~~

~~***c.*** *Otherwise approved by the board.* *(3-24-05)*~~

~~***d.***~~ "Relevant" shall be limited to material germane to the operation, maintenance and administration of drinking water and wastewater systems as referenced in Chapter 24, Title 54, Idaho Code, and includes those subjects identified in the "need to know" criteria published by the Associations of Boards of Certification. ~~*(3-24-05)*~~( )

03. Course Approval. All course providers must submit requests for approval of continuing education courses ~~*must be made*~~ to the board in writing no less than ~~*sixty*~~ thirty (~~6~~30) days prior to the course being offered, on a form approved by the board ~~*and accompanied by*~~ that includes: ~~*(3-24-05)*~~( )

a. The name and qualifications of the instructor or instructors; (3-24-05)

b. The date, time and location of the course; (3-24-05)

c. The specific agenda for the course; (3-24-05)

d. The type and number of continuing education credit hours requested; (3-24-05)

e. A statement of how the course is believed to be relevant as defined; (3-24-05)

f. Any certificate of approval from a governmental agency if the course has been previously approved for continuing education; ( )

~~f~~g. The training materials; (3-24-05)

~~g~~h. Other information as may be requested by the board. (3-24-05)

i. Upon review of all information requested, the Board may either approve or deny any request for a course. Board approval of a course shall be granted for a period not to exceed two (2) years or until the course materials or instructors are changed. ( )

04. Verification of Attendance. It shall be necessary for each licensee to maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours attended by the licensee. This verification shall be maintained by the licensee and provided upon request of the Board or its agent. (3-24-05)

05. Distance Learning and Independent Study. The Board may approve a course of study for continuing education credit that does not include the actual physical attendance of the licensee in a face-to-face setting with the course instructor. The licensee shall maintain documentation of the nature and details of the course and evidence that the licensee successfully completed the course, which shall be made available to the Board upon request. ( )

0~~5~~6. Failure to Fulfill the Continuing Education Requirements. The license will not be renewed for those licensees who fail to certify or otherwise provide acceptable documentation of meeting the CE requirements. Licensees who make a false attestation regarding compliance with the CE requirements shall be subject to disciplinary action by the Board. (3-24-05)

0~~6~~7. Exemptions. The Board may waive the continuing education requirement or extend the deadline up to ninety (90) days for any one or more of the following circumstances. The licensee must request the exemption and provide any information requested to assist the Board in making a determination. An exemption may be granted at the sole discretion of the Board. ~~(3-24-05)~~( )

a. The licensee is a resident of another jurisdiction recognized by the Board having a continuing professional education requirement for licensure renewal and has complied with the requirements of that state or district. (3-24-05)

b. The licensee is a government employee working outside the continental United States. (3-24-05)

c. The licensee documents individual hardship, including health (certified by a medical doctor) or other good cause. (3-24-05)

501. -- 599. (RESERVED).

600. RENEWAL OR REINSTATEMENT OF LICENSE (RULE 600).

01. Expiration Date. All licenses expire and must be renewed annually on forms approved by the Board in accordance with Section 67-2614, Idaho Code. Licenses not so renewed will be cancelled in accordance with Section 67-2614, Idaho Code. (3-24-05)

02. Reinstatement. Any license cancelled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code, with the exception that the applicant shall submit proof of having met the required continuing education for each year the license or certificate was cancelled. (3-24-05)

03. Operator-in-Training Permit. Applicants for the operator-in-training permit shall, upon compliance with the requirements of Subsections 300.01 and 300.02, be issued a "one-time" non-renewable permit for the purpose of gaining supervised experience as an operator-in-training (OIT). This permit will be valid for three (3) years from the date of issue. Upon making application and providing documented proof to the Board of having completed twelve (12) months of supervised operating experience in a Class I or higher public drinking water or wastewater system, and payment of the ~~*original license*~~ required fees, the permittee will be issued a Class I License. ~~*(3-24-05)*~~( )

04. Backflow Assembly Testers. Backflow assembly testers shall complete a board approved eight (8) hour refresher course every two (2) years for license renewal. ( )

05. Wastewater Land Application License. Wastewater land application licenses shall not be renewed unless the licensee also maintains a current wastewater treatment license. ( )

ENVIRONMENT, ENERGY & TECHNOLOGY

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.13 - RULES FOR ORE PROCESSING BY CYANIDATION

DOCKET NO. 58-0113-0502

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2006 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Chapter 1, Title 39, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, September 7, 2005, Vol. 05-9, pages 391 through 419. After consideration of public comments, the proposed rule has been revised at Subsection 007.02. During legislative review of the proposed rule, the Legislative Services Office noted that the proposed definition of Best Management Practices (Subsection 007.02) was inconsistent with the definition used in IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements". The rule has been revised to correct that inconsistency. The remainder of the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov or by contacting the undersigned.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the September 7, 2005 Idaho Administrative Bulletin, Vol. 05-9, pages 391 through 419.

FEE SUMMARY: The existing rule requires applicants to submit a $100 fee at the time the permit application is submitted to DEQ (Subsection 100.03.j.). This pending rule includes a new fee schedule which increases the permit application fee (Subsection 100.05.). Section 39-118A(2)(c), Idaho Code, authorizes the Director of DEQ to require a reasonable fee for processing permit applications.

IDAHO CODE SECTION 39-107D STATEMENT: These rules regulate an activity not regulated by the federal government. The following is a summary of additional information required by Sections 39-107D (3) and (4), Idaho Code, supporting modifications to these rules. Information relating to Section 39-107D(2) has also been provided. The requirements set forth in these rules are based upon best available peer reviewed science and studies and analyses conducted by the regulated mining community in Idaho and Nevada, the State of Nevada and other states, the U.S. Environmental Protection Agency (EPA), and Idaho Conservation League. These studies indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed.

Section 39-107D(2)(a), Idaho Code. To the degree that a department action is based on science,

in proposing any rule or portions of any rule subject to this section, the department shall utilize the best available peer reviewed science and supporting studies conducted in accordance with sound objective scientific practices.
Standards and performance criteria for construction, operation, maintenance, monitoring and permanent closure of cyanidation facilities were proposed as modifications to the Rules for Ore Processing by Cyanidation by members of the Idaho Mining Association and the Atlanta Gold Corporation. These standards and criteria are derivations of industry accepted standards and performance criteria used in the State of Nevada. These standards and performance criteria have been adopted by the State of Nevada as regulatory requirements. As such, these proven standards and criteria have been reviewed and accepted by Nevada's and Idaho's regulated community and the State of Nevada.

Section 39-107D(2)(b), Idaho Code. To the degree that a department action is based on science, in proposing any rule or portions of any rule subject to this section, the department shall utilize data collected by accepted methods or best available methods if the reliability of the method and the nature of the decision justifies use of the data.
Data was not collected or analyzed as part of this rulemaking process.

Section 39-107D(3)(a), Idaho Code. Identification of each population or receptor addressed by an estimate of public health effects or environmental effects.
Release of contaminants from cyanidation facilities may adversely impact beneficial uses in both surface and ground waters. Due to the remote location of most cyanidation facilities, populations and receptors of contaminants generated by these facilities are small domestic and community drinking water systems, recreationists, and wildlife. However, questions have been raised as to whether or not the drinking water supplies for Treasure Valley residents will be adversely affected by contaminants released from the Atlanta Gold Mine, which will be located above tributaries to the Middle Fork of the Boise River. Contaminants of concern with the potential of release from cyanidation facilities include, but are not limited to, cyanide, nitrates, chlorine, heavy metals, and sediment.

Sections 39-107D(3)(b) and (c), Idaho Code. Identification of the expected risk or central estimate of risk for the specific population or receptor and identification of each appropriate upper bound or lower bound estimate of risk.
Contaminants of concern listed above have been released from numerous cyanidation facilities, including the Stibnite Mine, Princess Blue Ribbon Mine, Champagne Mine, Black Pine Mine, and Grouse Creek Mine, each of which were regulated by the Rules for Ore Processing by Cyanidation as the rules existed prior to July 13, 2005. The pending rules would require significant improvements to design and construction of primary and secondary containment for process waters and pollutants. These changes are anticipated to eliminate future releases similar to those which occurred at those listed mines. Expected risks of exposure to contaminants released from cyanidation facilities which are constructed, operated, maintained and permanently closed according to the pending rules are as follows:

The expected risk for release of cyanide in concentrations, which might be expected to adversely affect surface or ground water is low. Risks of cyanide contamination affecting down-gradient beneficial users of drinking water (either directly or indirectly) are low to non-existent. Risks to other surface water beneficial uses, including cold water biota (and Bull Trout), salmonid

spawning and rearing, and primary and secondary contact recreation, are also low. These conclusions are based on the evaluation of annual Environmental Quality Reports, monitoring data and trend analyses of physical chemical and biological parameters submitted to DEQ by current and past operators. The information and conclusions may be found in DEQ's mining files for the Bear Track Mine, Grouse Creek Mine, Champagne Mine, De Lamar Mine, Hecla Yellow Pine Mine, and Stibnite Mine.

Releases of nitrates, chlorine and other neutralizing agents from spent ore disposal portions of the cyanidation facilities are expected, but should not occur in concentrations which might be expected to adversely affect surface or ground water. Risks of nitrate contamination affecting down-gradient beneficial users of drinking water (either directly or indirectly), are low to non-existent. However, the relative effects of additional nitrates on nutrient impaired Clean Water Act Section 303(d) listed streams, such as the lower Boise River, Brownlee, Ox Bow and Hells Canyon reservoirs is unknown. Risks to other surface water beneficial uses, including cold water biota (and Bull Trout), salmonid spawning and rearing, and primary and secondary contact recreation, are low.

Historically, spent ore disposal areas have been the source of heavy metals and sediment releases which adversely affected cold water biota, and salmonid spawning and rearing in surface waters. However, permanent closure criteria, which include source control measures such as caps and covers for waste repositories, will significantly reduce or eliminate releases from these facilities. The information and conclusions may also be found in DEQ's mining files for the Bear Track Mine, Grouse Creek Mine, Champagne Mine, De Lamar Mine, Hecla Yellow Pine Mine, and Stibnite Mine.

Section 39-107D(3)(d), Idaho Code. Identification of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty.
Studies of the effects of contaminant delivery from cyanidation facilities have been conducted by operators, state and federal agencies, and Native American tribes. However, conclusions regarding the short and long term effects of contaminants released from cyanidation facilities on cold water biota and salmonid spawning and rearing, particularly for anadromous fishes and Bull Trout, are inconclusive.

Toxicology studies indicate that if the contaminants of concern listed above are released in significant concentrations, there may be significant risk to beneficial uses such as drinking water, cold water biota, salmonid spawning and rearing. However, only routine monitoring and evaluation as prescribed by the current and pending rules are recommended.

Section 39-107D(3)(e), Idaho Code. Identification of studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effects or environmental effects and the methodology used to reconcile inconsistencies in the data.
Annual environmental quality monitoring reports for active mines in Idaho, which utilize cyanidation, are available to support the risk evaluations discussed above.

IDAHO CODE SECTION 67-5224(2)(f) FISCAL IMPACT STATEMENT: No negative impact occurs from this pending rule; provision is not applicable.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this pending rule, contact Bruce Schuld at bruce.schuld@deq.idaho.gov, (208)373-0554.

Dated this 16th day of November, 2005.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
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The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. This action is authorized by Chapter 1, Title 39, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before September 21, 2005. If no such written request is received, a public hearing will not be held.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) has initiated this rulemaking for the purpose of making revisions to the "Rules for Ore Processing by Cyanidation" in response to the Idaho Conservation League's Petition for Initiation of Rulemaking filed with the Board of Environmental Quality in February 2005. This rulemaking also addresses an increase in fees associated with the permitting process as well as any other changes deemed necessary to assure consistency with state and federal law and the efficient operation of a system for permitting ore processing by cyanidation within the state of Idaho. In addition, this rulemaking will revise the rules as necessary for consistency with changes made during the rulemaking initiated in response to Senate Bill 1169 (Docket No. 58-0113-0501). This rulemaking also adds the standard rule sections necessary for conformance with IDAPA 44.01.01, "Rules of the Administrative Rules

Coordinator".

The Idaho Mining Association, Independent Miners Association, Idaho Department of Lands, Idaho Conservation League, Idaho Rivers United, U.S. EPA, mining companies, associated grass roots environmental and multiple use organizations, and the public at large may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in November 2005 for adoption of a pending rule. The rule is expected to be final and effective upon the adjournment of the 2006 legislative session if approved by the Legislature.

FEE SUMMARY: The existing rule requires applicants to submit a $100 fee at the time the permit application is submitted to DEQ (Subsection 100.03.j.). This proposed rule includes a new fee schedule which increases the permit application fee (Subsection 100.05.). Section 39-118A(2)(c), Idaho Code, authorizes the Director of DEQ to require a reasonable fee for processing permit applications.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule regulates an activity not regulated by the federal government. The following is a summary of additional information required by Sections 39-107D (3) and (4), Idaho Code, supporting modifications to these rules. Information relating to Section 39-107D(2) has also been provided. The requirements set forth in this proposed rule are based upon best available peer reviewed science and studies and analyses conducted by the regulated mining community in Idaho and Nevada, the State of Nevada and other states, the U.S. Environmental Protection Agency (EPA), and Idaho Conservation League. These studies indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed.

Section 39-107D(2)(a), Idaho Code. To the degree that a department action is based on science, in proposing any rule or portions of any rule subject to this section, the department shall utilize the best available peer reviewed science and supporting studies conducted in accordance with sound objective scientific practices.

Standards and performance criteria for construction, operation, maintenance, monitoring and permanent closure of cyanidation facilities were proposed as modifications to the Rules for Ore Processing by Cyanidation by members of the Idaho Mining Association and the Atlanta Gold Corporation. These standards and criteria are derivations of industry accepted standards and performance criteria used in the State of Nevada. These standards and performance criteria have been adopted by the State of Nevada as regulatory requirements. As such, these proven standards and criteria have been reviewed and accepted by Nevada's and Idaho's regulated community and the State of Nevada.

Section 39-107D(2)(b), Idaho Code. To the degree that a department action is based on science, in proposing any rule or portions of any rule subject to this section, the department shall utilize data collected by accepted methods or best available methods if the reliability of the method and the nature of the decision justifies use of the data.

Data was not collected or analyzed as part of this rulemaking process.

Section 39-107D(3)(a), Idaho Code. Identification of each population or receptor addressed by an estimate of public health effects or environmental effects.

Release of contaminants from cyanidation facilities may adversely impact beneficial uses in both surface and ground waters. Due to the remote location of most cyanidation facilities, populations and receptors of contaminants generated by these facilities are small domestic and community drinking water systems, recreationists, and wildlife. However, questions have been raised as to whether or not the drinking water supplies for Treasure Valley residents will be adversely affected by contaminants released from the Atlanta Gold Mine, which will be located above tributaries to the Middle Fork of the Boise River. Contaminants of concern with the potential of release from cyanidation facilities include, but are not limited to, cyanide, nitrates, chlorine, heavy metals, and sediment.

Sections 39-107D(3)(b) and (c), Idaho Code. Identification of the expected risk or central estimate of risk for the specific population or receptor and identification of each appropriate upper bound or lower bound estimate of risk.

Contaminants of concern listed above have been released from numerous cyanidation facilities, including the Stibnite Mine, Princess Blue Ribbon Mine, Champagne Mine, Black Pine Mine, and Grouse Creek Mine, each of which were regulated by the Rules for Ore Processing by Cyanidation (Rules) as the Rules existed prior to July 13, 2005. The proposed Rules would require significant improvements to design and construction of primary and secondary containment for process waters and pollutants. These changes are anticipated to eliminate future releases similar to those which occurred at those listed mines. Expected risks of exposure to contaminants released from cyanidation facilities which are constructed, operated, maintained and permanently closed according to the proposed Rules are as follows:

The expected risk for release of cyanide in concentrations, which might be expected to adversely affect surface or ground water is low. Risks of cyanide contamination affecting down-gradient beneficial users of drinking water (either directly or indirectly) are low to non-existent. Risks to other surface water beneficial uses, including cold water biota (and Bull Trout), salmonid spawning and rearing, and primary and secondary contact recreation, are also low. These conclusions are based on the evaluation of annual Environmental Quality Reports, monitoring data and trend analyses of physical chemical and biological parameters submitted to DEQ by current and past operators. The information and conclusions may be found in DEQ's mining files for the Bear Track Mine,

Grouse Creek Mine, Champagne Mine, De Lamar Mine, Hecla Yellow Pine Mine, and Stibnite Mine.

Releases of nitrates, chlorine and other neutralizing agents from spent ore disposal portions of the cyanidation facilities are expected, but should not occur in concentrations which might be expected to adversely affect surface or ground water. Risks of nitrate contamination affecting down-gradient beneficial users of drinking water (either directly or indirectly), are low to non-existent. However, the relative effects of additional nitrates on nutrient impaired Clean Water Act Section 303(d) listed streams, such as the lower Boise River, Brownlee, Ox Bow and Hells Canyon reservoirs is unknown. Risks to other surface water beneficial uses, including cold water biota (and Bull Trout), salmonid spawning and rearing, and primary and secondary contact recreation, are low.

Historically, spent ore disposal areas have been the source of heavy metals and sediment releases which adversely affected cold water biota, and salmonid spawning and rearing in surface waters. However, proposed permanent closure criteria, which include source control measures such as caps and covers for waste repositories, will significantly reduce or eliminate releases from these facilities. The information and conclusions may also be found in DEQ's mining files for the Bear Track Mine, Grouse Creek Mine, Champagne Mine, De Lamar Mine, Hecla Yellow Pine Mine, and Stibnite Mine.

Section 39-107D(3)(d), Idaho Code. Identification of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty.

Studies of the effects of contaminant delivery from cyanidation facilities have been conducted by operators, state and federal agencies, and Native American tribes. However, conclusions regarding the short and long term effects of contaminants released from cyanidation facilities on cold water biota and salmonid spawning and rearing, particularly for anadromous fishes and Bull Trout, are inconclusive.

Toxicology studies indicate that if the contaminants of concern listed above are released in significant concentrations, there may be significant risk to beneficial uses such as drinking water, cold water biota, salmonid spawning and rearing. However, only routine monitoring and evaluation as prescribed by the current and proposed Rules is recommended.

Section 39-107D(3)(e), Idaho Code. Identification of studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effects or environmental effects and the methodology used to reconcile inconsistencies in the data.

Annual environmental quality monitoring reports for active mines in Idaho, which utilize cyanidation, are available to support the risk evaluations discussed above.

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during a negotiation conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, April 6, 2005, Volume 05-4, page 23, under Docket No. 58-0113-0501.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact John Lawson at John.Lawson@deq.idaho.gov, (208)373-0141.

Anyone may submit written comments on the proposed rule by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before October 5, 2005.

Dated this 3rd day of August, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

002. WRITTEN INTERPRETATIONS.
As described in Section 67-5201(19)(b)(iv), Idaho Code, the Department of Environmental Quality may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255. ( )

~~996~~003.ADMINISTRATIVE PROVISIONS.
Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality".
(3-15-02)

004. INCORPORATION BY REFERENCE.
These rules do not contain documents incorporated by reference. ( )

005. OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.
The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, telephone number (208) 373-0502. The office hours are 8:00 a.m. to 5:00 p.m. mountain time, Monday through Friday. ( )

~~997~~006.CONFIDENTIALITY OF RECORDS.
Information obtained by the Department under these rules is subject to public disclosure pursuant

to the provisions of Title 9, Chapter 3, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality". (3-15-02)

~~002~~007.DEFINITIONS.

01. Beneficial Use. Any of the various uses which may be made of the surface and/or ground water of the state including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, navigation, recreation in and on the water, wildlife habitat, and aesthetics. Beneficial uses for specific stream segments are established in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements". (1-25-95)

02. Best Management Practices (BMPs). Practices, techniques or measures developed, or identified, by the designated agency and identified in the state water quality management plan, as described in IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," which are determined to be a cost-effective and practicable means of preventing or reducing pollutants generated from nonpoint sources to a level compatible with water quality goals. (7-13-05)T

03. Cyanidation. The method of extracting target precious metals from ores by treatment with a cyanide solution, which is the primary leaching agent for extraction. (7-13-05)T

04. Cyanidation Facility. That portion of a new ore processing facility, or a material modification or a material expansion of that portion of an existing ore processing facility, that utilizes cyanidation and is intended to contain, treat, or dispose of cyanide containing materials including spent ore, tailings and process water. (7-13-05)T

05. Department. The Idaho Department of Environmental Quality. (1-1-88)

06. Director. The Director of the Department of Environmental Quality or his designee. (12-31-91)

07. Discharge. When used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. (7-13-05)T

~~***08. Free Cyanide**. The sum of cyanide present as undissociated molecular hydrogen cyanide (HCN) and the cyanide ion (CN-), expressed as cyanide (CN). (1-1-88)~~

~~0~~98. Groundwater. Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (7-13-05)T

~~1~~09. Impoundment. For the purpose of these rules an impoundment means a structure such as a pond, reservoir, tank, or vat that collects and confines liquids or slurries. (7-1-97)

1~~1~~0. Land Application. A process or activity involving application of process water, ~~*process-contaminated water,*~~ wastewater, surface water, or semi-liquid material to the land for the

purpose of disposal, pollutant removal, or groundwater recharge. ~~*(1-1-88)*~~( )

1~~2~~11. Liner. A continuous layer of natural or man-made materials beneath and, if applicable, on the sides of a surface impoundment or leach pad which restricts the downward and lateral ~~*escape*~~ movement of liquids. ~~*(1-1-88)*~~( )

1~~3~~2. Material Modification or Material Expansion. (7-13-05)T

a. The addition of a new beneficiation process ~~*which includes, but is not limited to, heap leaching and process components for milling*~~, or a significant change in the capacity of an existing beneficiation process, which was not identified in the original application and that significantly increases the potential to degrade the waters of the state. Such process could include, but is not limited to, heap leaching and process components for milling; or ~~*(7-13-05)T*~~( )

b. A significant change in the location of a proposed process component or site condition which was not adequately described in the original application; or (7-13-05)T

c. A change in the beneficiation process that alters the characteristics of the waste stream in a way that significantly increases the potential to degrade the waters of the state. (7-13-05)T

d. ~~*Reclamation or closure related activities at a facility*~~ For a cyanidation facility with an existing ~~*cyanidation*~~ permit that did not actively add cyanide after January 1, 2005, reclamation and closure related activities shall not be considered to be material modifications or material expansions of the cyanidation facility. ~~*(7-13-05)T*~~( )

1~~4~~3. Material Stabilization. Managing or treating spent ore, tailings or other solids and/or sludges resulting from the cyanidation process to minimize waters or all other applied solutions from migrating through the material and transporting ~~*contaminants*~~ pollutants associated with the cyanidation facility to ensure that all discharges comply with all applicable standards and criteria. ~~*(7-13-05)T*~~( )

14. National Pollution Discharge Elimination System (NPDES) Permit. A permit issued by the U.S. Environmental Protection Agency for the purpose of regulating discharges into surface waters. ( )

15. Neutralization. Treatment of process waters such that discharge or final disposal of those waters does not, or shall not, violate any applicable standards and criteria. (7-13-05)T

16. Permanent Closure. Those activities which result in neutralization, material stabilization and decontamination of cyanidation facilities and/or ~~*their*~~ the facilities' final reclamation. ~~*(7-13-05)T*~~( )

17. Permanent Closure Plan. A description of the procedures, methods, and schedule that will be implemented to meet the intent and purpose of Section 39-118A, Idaho Code, and Chapter 15, Title 47, Idaho Code, in treating and disposing of cyanide-containing materials including spent ore, tailings, and process water and in controlling and monitoring discharges and

potential discharges for a reasonable period of time based on site-specific conditions. (7-13-05)T

18. Permit. When used without qualification, any written authorization by the Director, issued pursuant to the application, public participation and appeal procedures in these rules, governing location, operation and maintenance, monitoring, seasonal and permanent closure, discharge response, and design and construction of a new cyanidation facility or a material expansion or material modification to a cyanidation facility. (7-13-05)T

19. Permittee. The person in whose name a permit is issued and who is to be the principal party responsible for compliance with these rules and the conditions of a permit. (7-1-97)

20. Person. An individual, corporation, partnership, association, state, municipality, commission, federal agency, special district or interstate body. (1-1-88)

21. Pilot Facility. (7-1-97)

a. A test~~*ing*~~ cyanidation facility that is constructed primarily to obtain data on the effectiveness of the ~~*benefaction*~~ beneficiation process to determine: ~~*(7-13-05)T*~~( )

i. The feasibility of metals recovery from an ore; or (7-1-97)

ii. The optimum operating conditions for a predetermined process to extract values from an ore. (7-1-97)

b. A pilot or test~~*ing*~~ facility operates for one (1) year for a single test or two (2) years for multiple tests, during which time no more than ten thousand (10,000) tons of ore are evaluated for the testing process(es), unless the applicant can demonstrate that a greater amount is necessary for a specific purpose in the testing process. ~~*(7-1-97)*~~( )

22. Pollutant. Chemicals, chemical waste, process water, ~~*process-contaminated water,*~~ biological materials, radioactive materials, or other materials which, when discharged, cause or contribute adverse effects to any beneficial use, or for any other reason, may impact the surface or ground waters of the state. ~~*(1-1-88)*~~( )

23. Post-Closure. The period of time after completion of permanent closure when the ~~*operator*~~ permittee is monitoring the effectiveness of the closure activities. Post-closure shall last a minimum of twelve (12) months but may extend until the cyanidation facility is shown to be in compliance with the stated permanent closure objectives and requirements of Chapter 15, Title 47, Idaho Code, and these rules. ~~*(7-13-05)T*~~( )

24. Process Waters. Any liquids which are intentionally or unintentionally introduced into any portion of the cyanidation process. These liquids may contain cyanide or other minerals, meteoric water, ground or surface water, elements and compounds added to the process solutions for leaching or the general beneficiation of ore, or hazardous materials that result from the combination of these materials. (7-13-05)T

25. Seasonal Closure. Annual cessation of operations that is due to weather. (1-1-88)

26. Small Cyanidation Processing Facility. A cyanidation facility which chemically processes less than thirty-six thousand five hundred (36,500) tons of ore per year and no more than one hundred twenty thousand (120,000) tons of ore for the life of the project at any one (1) permitted cyanidation facility. No person or applicant may concurrently hold more than one (1) small cyanidation processing facility permit, if the facilities are located within ten (10) miles of each other. ~~(7-13-05)T~~( )

27. Special Resource Water. Those waters of the state which are recognized as needing intensive protection: (1-1-88)

a. To preserve outstanding or unique characteristics; or (1-1-88)

b. To maintain current beneficial use (refer to Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," for a complete description; special resource waters for specific stream segments are established in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements"). (1-25-95)

28. State. The state of Idaho. (12-31-91)

29. Temporary Closure. Any cessation of operations exceeding thirty (30) days, other than seasonal or permanent. (1-1-88)

30. Treatment. Any method, technique or process, including neutralization, designed to change the physical, chemical, or biological character or composition of a waste for the purpose of disposal. (1-1-88)

31. Water Balance. An inventory and accounting process, capable of being reconciled, that integrates all potential sources of water that are entrained in the cyanidation facility or may enter into or exit from the cyanidation facility. The inventory must include the water holding capacity of specific structures within the facility that contain process water. The water balance is used to ensure that all process water and other pollutants can be contained as engineered and designed within a factor of safety as determined in the permanent closure plan. ~~(7-13-05)T~~( )

32. Water Management Plan. A document that describes the results of the water balance and the methods that will be used to ensure that pollutants are not discharged from a cyanidation facility into waters of the state unless permitted or otherwise approved by the Department. (7-13-05)T

33. Waters of the State. All the accumulations of water, surface and underground, natural and artificial, public or private, or parts thereof which are wholly or partially within, which flow through or border upon the state. These waters shall not include municipal or industrial wastewater treatment or storage structures or private reservoirs, the operation of which has no effect on waters of the state. (7-13-05)T

34. Weak Acid Dissociable (WAD) Cyanide. The cyanide concentration as determined by Method C, Weak Acid Dissociable Cyanide, D2036 of American Society of Testing Materials Book of Standards, "Standard Methods for the Examination of Water and Wastewater," Method 4500-CN- I, or other methods accepted by the scientific community and deemed appropriate by the Department. (7-13-05)T

(BREAK IN CONTINUITY OF SECTIONS)

050. CONCEPTUAL DESIGN APPROVAL.

01. Information Required for Conceptual Design Approval. Submittal of a Conceptual Design Report is not mandatory. The Director may, if requested, give initial approval of the basic operation, design concepts, and environmental safeguards proposed based on the information included in a Conceptual Design Report. Approval of the Conceptual Design Report shall not authorize the construction, modification or operation of the cyanidation facility. It is recommended that ~~*T*~~the Conceptual Design Report ~~*shall consist of*~~ address the ~~*following:*~~ ~~*(7-13-05)T*~~

~~***a.***~~ ~~*Requirements*~~ contents for a permit application as listed in Subsection~~s~~ 100.03~~*.a. through 100.03.f*~~. ~~*(12-31-91)*~~( )

~~***b.***~~ ~~*A general description of the operating plan, cyanidation facility and conceptual designs.*~~ ~~*(7-13-05)T*~~

02. Notice of Conceptual Design Approval or Disapproval. The Director shall notify the applicant in writing of the decision for conceptual approval or disapproval within a period of thirty (30) days from receiving all information as required under Subsection 050.01. The time required to review and approve, if appropriate, a conceptual design shall be considered separate from and shall not be included as part of the one hundred eighty (180) day time period for processing the formal application and issuance of a Director's determination pursuant to these rules. (7-13-05)T

03. Preapplication Conference. Prospective applicants are encouraged to meet with agents of the Department ~~*well*~~ at least one (1) year in advance of the application submittal to discuss ~~*siting and operating plans, anticipated application requirements, application procedures, and to arrange for*~~ environmental baseline data requirements; waste characterization requirements; siting requirements for surface and ground water monitoring stations, mills, tailing impoundments, waste disposal sites and land application sites; monitoring well construction requirements; operation and maintenance plans; emergency and spill response plans; quality control/quality assurance plans for water quality sampling and analyses; required contents for permit applications; application procedures and schedules; public review and comment periods; public meetings; and agency cyanidation facility visits. The preapplication conference may trigger a period of collaborative effort between the applicant, the Idaho Department of Environmental Quality, and the Idaho Department of Lands in development of checklists to be

used by the agencies in reviewing an application for completeness, accuracy and protectiveness. *(7-13-05)T*( )

051. -- 099. (RESERVED).

100. PERMIT AND PERMIT APPLICATION.

01. Permit Required. No person shall construct a new cyanidation facility prior to obtaining a permit from the Director. No person shall materially expand or materially modify a cyanidation facility prior to obtaining a modified permit for such expansion or modification pursuant to Section 750. *(7-13-05)T*( )

02. Permit Application. The owner or proposed operator of a *proposed* cyanidation facility or the owner's or operator's authorized representative shall: *(7-13-05)T*( )

a. Make application to the Director in writing and in a manner or form prescribed herein; and (7-13-05)T

b. Provide five (5) paper copies of the application to the Director, unless otherwise agreed to by the Department and the applicant. (7-13-05)T

03. Contents of Application. A permit application *will* and its contents shall be used to determine if *the location, construction, operation, and closure of a* an applicant can locate, construct, operate, maintain, close and monitor the proposed cyanidation facility *will be* in conformance with these and other applicable rules including, but not limited to, Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements,"; *and Idaho Department of Environmental Quality Rules,* IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems"; IDAPA 58.01.05, "Rules and Standards for Hazardous Waste"; IDAPA 58.01.06, "Solid Waste Management Rules"; and IDAPA 58.01.11, "Ground Water Quality Rule". Information required shall include the following, in sufficient detail to allow the Director to make necessary application review decisions concerning design concepts, and protection of human health and the environment*al protection and public health*: *(7-13-05)T*( )

a. Name, location, and mailing address of the cyanidation facility. (7-13-05)T

b. Name, mailing address, and phone number of the applicant, and a registered agent. (1-1-88)

c. Land ownership status of the cyanidation facility (federal, state, private or public). (7-13-05)T

d. Name, mailing address, and phone number of the applicant's construction and operations manager. ( )

***d*e.** The legal structure (corporation, partnership, etc.) and residence of the applicant. (1-1-88)

f. The legal description, to the quarter-quarter section, of the location of the proposed cyanidation facility. ( )

g. Evidence the applicant is authorized by the Secretary of State to conduct business in the State of Idaho. ( )

h. A general description of the operational plans for the cyanidation facility from construction through permanent closure. This description shall include any proposed phases for construction, operations, and permanent closure. ( )

i. The design maximum daily throughput of ore through the cyanidation facility and the total projected volume of material to be processed during the life of the operation. ( )

j. Cyanidation facility layouts including water management systems designed to segregate storm water from process water. ( )

~~e~~k. ~~*A surface and subsurface description, except as provided in Subsection 100.04 of these rules, of the local hydrogeologic regime.*~~ A geotechnical evaluation of all process water and process chemical containment systems within the proposed cyanidation facility. ~~*(7-13-05)T*~~( )

~~f~~l. A preconstruction topographic site map ~~*and/*~~ or aerial photos~~, except as provided in Subsection 100.04 of these rules,~~ extending at least one (1) mile beyond the outer limits of the cyanidation facility, identifying and showing the location and extent of the following features: ~~*(7-13-05)T*~~( )

i. All wells, perennial and intermittent springs, adit discharges, wetlands, surface waters and irrigation ditches ~~*within one (1) mile of*~~ that may be affected by the cyanidation facility; ~~*(7-13-05)T*~~( )

ii. All process water supply source(s); (1-1-88)

iii. All public and private drinking water supply source(s) within at least one (1) mile of the cyanidation facility; (7-13-05)T

iv. ~~*All USGS i*~~Identified floodplain areas (~~*as*~~ shown on USGS sectional Quadrangle maps); ~~*(1-1-88)*~~( )

v. All service roads and public roads; (1-1-88)

vi. All buildings and structures within a half (1/2) mile of the cyanidation facility; (7-13-05)T

vii. All special resource waters within one (1) mile of the cyanidation facility; (7-13-05)T

viii. All Clean Water Act Section 303(d) listed streams, and their listed impairments,

within ten (10) miles of the site boundary that may be affected by the cyanidation facility. ( )

m. To the extent such information is available, a description and location of underground mine workings and adits and a description of the structural geology that may influence ground water flow and direction. ( )

n. A description of the proposed land application site. The description shall include a potentiometric map, surface and subsurface soil characteristics, geology, hydrogeology and ground water quality. The description of these characteristics must be sufficient to determine anticipated impacts to the affected soils, associated vadose zone as well as anticipated changes in geochemistry that may affect surface and ground water quality. ( )

o. Siting diagram for land application sites, monitoring wells, lysimeters, surface or ground water discharge sites, or surface water monitoring locations. ( )

p. A description of measures to protect wildlife that may be affected by the facility. ( )

q. Proposed post-construction topographic maps. ( )

~~**g.** *Topographic maps and/or aerial photos and an engineering report with drawings, except as provided in Subsection 100.04 of these rules, showing locations and design of those portions of the cyanidation facility intended to contain, treat, or dispose process water or process-contaminated water containing cyanide. This information shall be of sufficient detail to allow the Director to make necessary factual determinations concerning design competence and environmental protection and include: a drawing which shows surface gradients and flow of process solutions, predicted flow of runoff and run-on; design criteria and process schematic; leach pad and pond cross sections; typical details of liner systems for pads, ponds and process-related impoundments; treatment process schematics; and leak detection/monitoring system details. The cyanidation facility design shall be certified by a registered professional engineer. Any material modifications to the engineering drawings shall require prior approval by the Department and submittal of as built drawings by the applicant which are certified by a registered professional engineer. These rules recognize the need for practicable design flexibility in order to meet site specific operating and environmental protection criteria. Construction and material specifications that meet design criteria shall be submitted with the permit application. These shall address major construction requirements related to materials of construction identified in the engineering report, inspection and testing requirements (including liners), and necessary manufacturer certifications. Construction specifications shall include a quality assurance procedure for liner installations and a procedure for leak testing of impoundments.* (7-13-05)T~~

r. Engineering Plans and Specifications. Engineering plans and specifications for all portions of the cyanidation facility intended to contain, treat, convey or dispose of all process water and pollutants must be submitted to the Department for review and approval. Prior to construction, all cyanidation facility engineering plans and specifications must be stamped by a professional engineer registered in the state of Idaho. These plans and specifications shall include: ( )

i. The water balance, ore flow and processing calculations demonstrating the logic behind sizing of facilities. ( )

ii. The general ore processing overview analyses of chemical compatibility of containment materials with process chemicals and wastes, including a chemical mass balance at inputs and outputs from the cyanidation facility. ( )

iii. Geotechnical data and analyses demonstrating the logic for plans and specifications of foundation materials and placement. ( )

iv. Requirements for site preparation. ( )

v. Pumping and dewatering requirements. ( )

vi. Procedures for materials selection and placement for backfilling foundation areas. ( )

vii. Criteria for ensuring slope stabilization of embankments for pads, ponds and tailings impoundment. ( )

viii. Procedures to classify and modify, if necessary, excavated fill, bedding and cover materials for buildings, pads, ponds, and tailings impoundments. ( )

ix. Plumbing schematics and component specifications. ( )

x. Manufacturers' specifications and warranties for all materials that will or may come in contact with process waters. ( )

xi. Plan views and cross-section drawings of leach pad, permanent heaps, vats, process water storage ponds, tailing ponds and spent ore disposal areas. ( )

xii. Leak detection and collection system plans and specifications including, but not limited to, schematics and narratives describing liner and geotextile material specifications, sumping capacity and layout, location of monitoring port(s), monitoring port components, construction operation and maintenance procedures for monitoring ports and pumping systems, including backup system, triggers for primary and secondary containment repairs, replacement or other contingency mitigation, frequency of monitoring, and monitoring parameters. ( )

xiii. Provisions to protect primary and secondary containment systems from heavy equipment, fires, earthquakes and other natural phenomena. ( )

xiv. Quality control and quality assurance procedures. ( )

xv. The identity and qualifications of person(s) directly responsible for supervising construction and providing project quality control and quality assurance. ( )

~~h~~s. ~~*An operating plan, except as provided in Subsection 100.04 of these rules, that*~~

Operation and maintenance plans that includes: ~~*(7-1-97)*~~( )

~~*i. The general ore processing overview;* (1-1-88)~~

ii~~.~~ ~~*The process containment, treatment and disposal methods to be used;*~~ Maintenance plans, including routine service procedures for primary and secondary containment systems, process chemical storage, and disposal of contaminated water or soils, including petroleum-contaminated soils. ~~*(1-1-88)*~~( )

iii. A water management plan that ~~*describes the*~~ provides for handling and containment of process water ~~*balance and*~~ including the methods to manage and/or treat all process water and pollutants, ~~*process-contaminated water,*~~ and run-off or run-on water, emergency releases, and excess water due to flood, rain, snowmelt, or other similar events. The plan shall include the basis for impoundment volumes and ~~*all*~~ estimations of the need for and operation of a land application site, injection wells, infiltration galleries or leach fields, or the need for an NPDES permit. ~~*Nothing in these rules shall be construed to deny the owner or operator of a cyanidation facility the opportunity to apply for and receive a federal discharge permit or an Idaho Department of Water Resources injection well permit as part of the water management plan. In addition the plan may include a request for approval of a land application proposal or a proposal for economic reuse.*~~ The plan shall be updated on a regular basis to reflect the reconciliation of the water balance changes in the project through construction, operation, maintenance, and permanent closure, including modifications to the cyanidation facility. ~~*(7-13-05)T*~~( )

iv~~i~~ii. A proposed water quality monitoring ~~*strategy*~~ plan that ~~*describes the existing water quality (baseline), proposed monitoring of surface and ground waters that may receive drainage or seepage from the operation (operational), and proposed monitoring for detection and location of leaks or discharges from the operation*~~ meets the requirements of Subsection 200.08. ~~*(1-1-88)*~~( )

iv. ~~*A discharge response strategy*~~ An emergency and spill response plan that describes procedures and methods to be implemented for the abatement~~,~~ and clean up of any pollutant that may ~~*escape proper containment at the cyanidation facility*~~ be discharged from the cyanidation facility during use, handling or disposal of processing chemicals, petrochemicals and/or fuels, and any other deleterious materials. ~~*(7-13-05)T*~~( )

v~~i~~. A seasonal/temporary closure ~~*strategy*~~ plan, if applicable, that describes the procedures, methods, and schedule to be implemented for the treatment and disposal of process water and pollutants, the control of drainage from the cyanidation facility during the period of closure, the control of drainage from the surrounding area, and the secure storage of process chemicals. ~~*(7-13-05)T*~~( )

~~i~~t. Permanent Closure Plan. The permanent closure plan may be the same as the plan submitted to the Idaho Department of Lands pursuant to the Idaho Surface Mining Act, Chapter 15, Title 47, Idaho Code. The permanent closure plan shall: (7-13-05)T

i. ~~*Provide a definition of*~~ Identify the current owner~~*ship*~~ of the cyanidation facility

and the party responsible for the permanent closure and the long-term care and maintenance of the cyanidation facility. ~~*(7-13-05)T*~~( )

ii. Include a time line showing the schedule to complete permanent closure activities, including neutralization of process waters and material stabilization, and the time period for which the ~~*operator*~~ permittee shall be responsible for post-closure activities. ~~*(7-13-05)T*~~( )

iii. Provide the objectives, methods and procedures, that will achieve neutralization of process waters and material stabilization during the closure period and through post-closure. (7-13-05)T

iv. Provide a water management plan from the time the cyanidation facility is in permanent closure through the defined post-closure period. (7-13-05)T

v. Include the schematic drawings for all BMPs that will be used during the closure period, through the defined post-closure period, a description of how the BMPs support the water management plan, and an explanation of the water conveyance systems that are planned for the cyanidation facility. (7-13-05)T

vi. Provide proposed post-construction topographic maps and scaled cross-sections showing the configuration of the final heap or tailing facility, including final cap and cover designs and the plan for long-term operation and maintenance of the cap. Caps and covers used as source control measures for cyanidation facilities must be designed to minimize the interaction of meteoric waters, surface waters, and ground waters with wastes containing ~~*contaminants*~~ pollutants that are likely to be mobilized and discharged to waters of the state. Prior to issuance of a final permit, ~~*E*~~engineering ~~*designs*~~ plans and specifications for caps and covers must be signed and stamped by a professional engineer registered in the state of Idaho. ~~*(7-13-05)T*~~( )

vii. Include monitoring plans for surface and ground water during closure and post-closure periods adequate to demonstrate water quality trends and to ensure compliance with the stated permanent closure objectives and requirements of these rules. (7-13-05)T

viii. Provide an assessment of the potential impacts to soils and vegetation for all areas to be used for land application and provide a mitigation plan as appropriate. (7-13-05)T

ix. Provide information on how the ~~*operator*~~ permittee will comply with the Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901 et seq.; the Idaho Hazardous Waste Management Act, Chapter 44, Title 39, Idaho Code; the Idaho Solid Waste Management Act, Chapter 74, Title 39, Idaho Code; and appropriate state rules, during operation and permanent closure. ~~*(7-13-05)T*~~( )

x. ~~*All components of the permanent closure plan shall be prepared in*~~ Provide sufficient detail to allow the ~~*operator*~~ permittee to prepare an estimate of the reasonable cost for the state of Idaho to hire a third party to implement the closure plan. ~~*(7-13-05)T*~~( )

~~*j*~~u. The application shall be accompanied by a fee ~~*of one hundred dollars ($100)*~~ pursuant to Subsection 100.05. ~~*(1-1-88)*~~( )

04. Application for a Small Cyanidation Processing Facility and Pilot Facility. The owner or proposed operator of a ~~*proposed*~~ small cyanidation processing facility or the owner's or operator's authorized representative shall make application to the Director in writing of the intent to operate a small cyanidation processing facility or a pilot facility. The application shall include an explanation as to why the proposed small cyanidation processing facility qualifies as a small cyanidation processing facility or a pilot facility. The application must ~~*further meet the requirements of Subsection 100.03 in the following manner:*~~ provide the information, plans and specifications identified in Subsection 100.03. ~~*(7-13-05)T*~~( )

~~***a.*** *The application must contain plans and specifications certified by a registered professional engineer in accordance with Section 39-118A, Idaho Code; and* *(7-1-97)*~~

~~***b.*** *The application must contain the information and fee required by Subsections 100.03.a., 100.03.b., 100.03.c., 100.03.d., 100.03.i., and 100.03.j.; and* *(7-1-97)*~~

~~***c.*** *The Director may provide an exemption to any other requirement of Subsection 100.03 not set forth in Subsections 100.04.a. and 100.04.b., if by so doing, the Director has sufficient information to determine potential impacts to the environment, public health or current or future beneficial uses of the waters of the state.* *(7-1-97)*~~

05. Permit Application Fees. ( )

a. The application shall be accompanied by a fee as described below: ( )

i. Five thousand dollars ($5,000) for a pilot facility; ( )

ii. Ten thousand dollars ($10,000) for a small cyanidation processing facility; ( )

iii. Twenty thousand dollars ($20,000) for a cyanidation facility that is neither a pilot facility nor a small cyanidation processing facility; or ( )

iv. In lieu of paying a fee at the time the application is submitted, an applicant may enter into an agreement with the Department for actual costs incurred to process an application and issue a final permit. The applicant shall not commence operations at the cyanidation facility until the terms of the agreement have been met, including that the Department has been reimbursed for all actual costs incurred for the permitting process. ( )

b. Completeness of an application is contingent upon one (1) of the following: ( )

i. Submission of the applicable fees as described in Subsections 100.05.a.i. through 100.05.a.iii.; or ( )

ii. The applicant enters into an agreement with the Department as described in Subsection 100.05.a.iv. ( )

06. Exemptions to Fees. Requests made by the Department to the permittee for any

permit modifications shall not be subject to application fees set forth in Subsection 100.05. Requests by the permittee for minor modifications to a permit shall not be subject to application fees set forth in Subsection 100.05. ( )

101. -- 199. (RESERVED).

200. REQUIREMENTS FOR WATER QUALITY PROTECTION.
The following ~~*minimum*~~ design and performance standards are intended as ~~*a baseline*~~ the minimum criteria for protection of public health and ~~*for*~~ the waters of the state. These standards shall apply to all facilities unless the ~~*Director approves, based on an applicant's site specific information*~~ Department determines that ~~*compliance with a*~~ other site-specific ~~*standard is not required*~~ criteria are appropriate to protect water quality and the public health. ~~*(1-1-88)*~~( )

01. Cyanidation Facilities Siting and Preparation. All cyanidation facilities including, but not limited to, the process building, laboratories, process chemical storage and containment facilities, plumbing fixtures that support process water, untreated or treated process water ponds, tailings impoundments, ore stock piles, and spent ore disposal areas must be appropriately sited and prepared for construction. Siting criteria must ensure that, at a minimum, the facilities are structurally sound and that primary and secondary containment systems can be adequately protected against factors such as wild fires, floods, land slides, surface and ground water systems, equipment operation, subsidence of underground workings, public access and public activities. All sites must be properly prepared prior to construction of foundations and facilities. Vegetation, roots, brush, large woody debris and other deleterious materials, top soil, historic foundations and plumbing, or other materials that may adversely affect appropriate construction and long term stability, must be removed from the footprint of the cyanidation facility unless approved by the Department. ( )

0~~1~~2. ~~*Containment Design*~~ Process Water Storage Sizing Criteria. All aspects of the cyanidation facility that entrain, utilize, treat, discharge, pump, or otherwise contain process water and pollutants shall be included in the water balance. The water balance shall include process water ponds, treated process water ponds, tailing impoundments, and water conveyance systems. The engineered containment criteria for each pond shall be incorporated into the water balance and must be designed to maintain a minimum two (2) foot freeboard at all times. At a minimum, a cyanidation facility shall be designed to contain the maximum expected normal operating water balance and the ~~*one hundred (100) year, twenty-four (24) hour storm event*~~ volume of run-on/run-off water associated with a climatic event that has a frequency of occurrence of one (1) year in one hundred (100) years or one percent (1%). Snowmelt events shall be considered in determining the containment capacity. Contingency plans for managing excesses of process water ~~*or process-contaminated water*~~ shall be described in the water management strategy. Each impoundment design must include a spillway, unless otherwise approved by the Department. ~~*(7-13-05)T*~~( )

0~~2~~3. Minimum Plans and Specifications for Impoundments ~~*Design*~~, Leach Pads and Other Facilities Designed to Contain Process Water. ~~*Impoundments, other than for emergency runoff, containing or designed to contain process water shall be designed for efficient leak detection and provide for adequate leak recovery. This requirement does not apply to tailing structures more than thirty (30) feet in height which are regulated by the Idaho Department of Water Resources under Chapter 17, Title 42, Idaho Code.*~~ Engineering plans and specifications,

which are signed and stamped by a professional engineer registered in the state of Idaho, must be approved and included in the final permit issued by the Department prior to construction of cyanidation facilities that are designed to contain process waters. The plans and specifications must provide for: ~~*(1-1-88)*~~( )

a. A prepared subbase of compacted soil, which shall be a minimum of twelve (12) inches thick. The soil must be compacted to ninety-five percent (95%) of Standard Proctor Test ASTM 698 or ninety-five percent (95%) of Modified Proctor Test ASTM 1557. The compacted soil layers must be placed in a minimum of two (2) lifts; ( )

b. A prepared subbase, which shall be free of plus three (3) inch rocks, roots, brush, trash, debris or other deleterious materials; ( )

c. Primary containment synthetic liners, which shall have a minimum thickness of eighty (80) milli-inches (2.0 mm) consisting of high-density polyethylene (HDPE) material and a maximum coefficient of permeability of 10^{-11} cm/sec, or comparable liners approved by the Department; ( )

d. A final smoothed and compacted soil layer, which shall not contain particles in excess of point seven five (0.75) inches (nineteen (19) mm) in diameter and have a maximum coefficient of permeability of 10^{-6} cm/sec, or comparable liners approved by the Department; ( )

e. Primary and secondary liner systems, which shall be constructed according to manufacturers' standards, or Department-approved design standards, and which must protect against cracking, sun damage, ice, frost penetration or heaving, wildlife and wildfires, and damage that may be caused by personnel or equipment operating in or around these facilities; ( )

f. Compacted clay liners (CCLs), which shall be placed within two percent (2%) of optimum moisture content for the CCL to achieve specified compaction and permeability criteria; ( )

g. An appropriate interface friction strength plus a factor of safety when either a geosynthetic clay liner (GCL) or CCL is used with a geomembrane liner on a slope; ( )

h. Minimum factors of safety, and the logic behind their selection, for the stability of the earthworks and the lining systems of heap leach pads and ponds; ( )

i. Redundant systems, which shall be available if there are failures in primary power and/or pumping systems; ( )

j. Procedures for loading ore onto the leach pads which will minimize tensile stresses in the primary and secondary containment liners that may result in failure of the liners; and( )

k. Leak detection and collection systems, which shall be designed and installed for all facilities, or portions thereof, where process waters may place an average of twelve (12) inches or

greater of hydraulic head pressure on primary containment. The engineering plans and specifications shall: ( )

i. Provide a material between primary and secondary containment synthetic liners to collect, transport and remove all process water that passes through the primary containment synthetic liner at such a rate as to prevent hydraulic head from developing on the secondary containment synthetic liner to the level at which it may be reasonably expected to result in discharges through the secondary containment synthetic liner; ( )

ii. Provide routines and schedules for the evaluation of the efficiency and effectiveness of the removal of process waters from the layer placed between primary and secondary containment synthetic liners. The properly working system shall continually relieve head pressures on the secondary containment synthetic liner; ( )

iii. Provide specific triggers for maintenance routines, which shall be initiated in response to inadequate performance of primary or secondary containment synthetic liners; ( )

iv. Specify operation and maintenance procedures, which shall be initiated in response to inadequate performance of primary and secondary containment or leak detection and collection systems; and ( )

v. Provide secondary containment synthetic liners, which shall have a minimum thickness of eighty (80) milli-inches (two (2.0) mm) consisting of HDPE and a maximum coefficient of permeability of 10^{-11} cm/sec, or comparable liners approved by the Department. ( )

~~***03. Liner Criteria**. A hydraulic liner is required for leach pads and impoundments and shall: (1-1-88)*~~

~~***a.** Be designed for a maximum coefficient of permeability of 10 power -7, cm/sec; a clay liner shall also have a minimum thickness of twelve (12) inches; (1-1-88)*~~

~~***b.** Have a competent foundation designed to withstand the projected static and dynamic loading and projected differential settlement; (1-1-88)*~~

~~***c.** Be structurally competent at all times until permanent closure; (1-1-88)*~~

~~***d.** Be chemically compatible with materials contacting the liner; (1-1-88)*~~

~~***e.** Be designed to prevent damage during loading and unloading; (1-1-88)*~~

~~***f.** Where appropriate, ensure minimal hydraulic head above the liner. (1-1-88)*~~

04. Process Buildings, Process Chemical Storage Containment Areas and General Facility Criteria. Storage, handling and use of all process chemicals, process wastes, process water and pollutants must be conducted within a clean, safe and secure work space to prevent unauthorized discharges to soils, ground water or surface water. The plans and specifications must

contain sufficient detail, including pump capacity and plumbing for evacuation of collection sumps, triggering systems for sump evacuation, and monitoring and reporting requirements. Plans and specifications must be submitted with the application for the Department's review and approval. Prior to construction, plans and specifications for the process buildings and auxiliary facilities, including process chemical storage and containment facilities and laboratories, must be signed and stamped by a professional engineer registered in the state of Idaho. Where appropriate, these plans and specifications must provide for: ( )

a. Structural integrity of the foundation, walls and roof for process and process chemical storage buildings. ( )

b. Restriction of public access. ( )

c. Protection of wildlife. ( )

d. Internal sumps and spill cleanup plans. ( )

e. Grouted and sealed concrete stemmed walls and floors in the process and process chemical storage and containment facilities. ( )

f. Vapor barriers and frost protection. ( )

g. Segregation of process chemicals according to compatibility. ( )

h. Communication systems. ( )

i. Fire suppression systems, internal and external. ( )

j. Quality assurance and quality control for construction activities and construction materials. ( )

05. Cap and Cover Criteria. Caps and covers used as source control measures for facilities must be designed and constructed to minimize the interaction of meteoric waters, surface waters, and ground waters with wastes containing pollutants that are likely to be mobilized and discharged to waters of the state. Caps and covers designed for permanent closure must demonstrate permanence applicable to the permittee's designed and approved permanent closure plan. Prior to issuance of a final permit, engineering plans and specifications for caps and covers must be signed and stamped by a professional engineer registered in the state of Idaho. ( )

06. Plumbing and Conveyance Criteria. Engineering plans and specifications must be submitted to the Department for review and approval. Plumbing and conveyance systems shall be structurally sound and chemically compatible with the materials being conveyed; shall provide adequate primary and secondary containment; and shall be protected against heat, cold, mechanical failures, impacts, fires, and other factors which may cause breakage and result in unauthorized discharges. Prior to construction, engineering plans and specifications of all conveyances of materials containing process water must be signed and stamped by a professional engineer registered in the state of Idaho. ( )

07. **Operation and Maintenance Plans**. Operation and maintenance plans must be submitted to the Department for review and approval. Operation and maintenance plans must include, but are not limited to: ( )

a. An overall plan that includes techniques for evaluating the integrity and performance of all primary and secondary containment systems. ( )

b. Schedule for inspections of all primary and secondary containment systems.( )

c. Schedule for inspections on piping and conveyance systems that carry process water. ( )

d. Response plans that detail specific actions that will result in mitigation of compromised or damaged containment systems. ( )

04**8.** **Water Quality Monitoring and Reporting**. ~~*A ground water and/or surface*~~ The water quality monitoring ~~*program shall be required for a cyanidation facility. The monitoring program shall be dependent on location, design and operation of the cyanidation facility, and shall be capable of indicating the cyanidation facility's effect on the surface and/or ground water most likely to be affected by the operation. The monitoring program shall be designed to give the earliest possible detection of an unauthorized discharge.*~~ plan submitted with the application shall be reviewed and, if appropriate, approved by the Department. The approved water quality monitoring plan shall: ~~*(7-13-05)T*~~( )

a. Provide for physical, chemical and biological monitoring, including surface water flow measurements, in potentially affected surface and ground water, as appropriate. ( )

b. Provide for sampling locations and frequency. ( )

c. Provide an assessment of the existing surface and ground water conditions prior to construction of the proposed cyanidation facility. ( )

d. Be site specific and dependent on location, design and operation of the cyanidation facilities included in the overall operating plan. ( )

e. Specify compliance points and associated water quality compliance criteria.( )

f. Specify monitoring points, which will provide for early detection of discharges of pollutants. ( )

g. Provide analytical methods and method detection limits for chemical analysis used in the determination of water quality. ( )

h. Provide a quality assurance quality control plan for data collection and analysis. ( )

i. Provide for appropriate and timely analytical data analyses including evaluations of water quality and quantity trends. ( )

j. Provide an annual environmental monitoring and data analysis report of water quality and quantity trends. ( )

k. Provide for the reporting and re-sampling of monitoring locations where detectable and statistically significant changes in water quality are found. The permittee shall propose a statistical method to determine the significance of the changes in water quality. ( )

l. Provide for anticipated changes or modifications to monitoring plans, which may be the result of a phased approach to cyanidation facility construction, operations and permanent closure. ( )

~~***05. Disposal or Abandonment of Leached Ore**. Disposal or abandonment of the leached ore shall ensure that: (1-1-88)~~

~~***a.** The concentration of weak acid dissociable cyanide or free cyanide and other pollutants associated with cyanidation in process-contaminated water draining from the leached ore is reduced to a level that is based on the disposal method, location and the potential for ground water and surface water contamination, or the pH of process-contaminated water draining from the leached ore is stabilized to a pH between six point five (6.5) and nine (9.0), prior to disposal or abandonment. Mine tailing impoundments that require recycling of process water to prevent a point source discharge may be exempt from this requirement by the director; (1-1-88)~~

~~***b.** Structural stability of the spent-ore pile is maintained; (1-1-88)~~

~~***c.** Monitoring of the surface and ground water is conducted to verify that beneficial uses are maintained. (1-1-88)~~

~~***06. Seasonal Closure**. Prior to seasonal closure, the freeboard in process water impoundments shall be increased to a level sufficiently below normal operating volume to ensure containment design criteria. The concentration of weak acid dissociable cyanide or free cyanide and other pollutants associated with cyanidation in process or process-contaminated water shall be reduced to a level that is based on the disposal method, location and the potential for ground water and surface water contamination; or prior to disposal, process water shall be treated to a pH between six point five (6.5) and nine (9.0). (1-1-88)~~

~~***07. Storage Requirements**. Cyanide compounds in storage shall be physically separated and protected from other substances, such as acids and strong oxidants, that are not chemically compatible. (1-1-88)~~

~~***08. Employee Education Program**. The permittee shall demonstrate that a program of new employee orientation and continuing employee education is being implemented and maintained. The program shall be designed to ensure awareness and implementation of the discharge response strategy. (1-1-88)~~

09. **Monitoring Wells Siting and Construction Plans**. The applicant is encouraged to submit the purpose, objectives, location and proposed construction of monitoring wells to the Department for review and comment during the initial stages of site characterization. ( )

a. Monitoring well siting and construction plans shall provide for a minimum of three (3) monitoring wells. One (1) shall be located up gradient and two (2) shall be located down gradient of primary components of the cyanidation facility to determine ground water flow direction. ( )

b. Siting and planning for additional wells or replacement wells may be required in the permit application and final permit. Specifically, additional wells may be required for: ( )

i. Large areas with multiple potential sources for pollutants; ( )

ii. Areas with complex geology, fractured bedrock; and ( )

iii. Areas with insufficient background hydrogeology. ( )

c. All monitoring well construction must also conform to the well construction rules listed in IDAPA 37.03.09, "Well Construction Standards Rules". ( )

d. Record diagrams along with a detailed geologic log shall be provided to the Department for each monitoring well. ( )

10. **Land Application**. Prior to issuance of a final permit, plans and specifications for the construction or modification of land application of process water disposal systems shall be submitted to and approved by the Department. All plans and specifications for the construction, operation and closure of land application or other waste treatment or disposal facilities or modification must be signed and stamped by a registered professional engineer licensed in the state of Idaho. Plans and specifications shall include: ( )

a. An operation and maintenance plan including: ( )

i. Water balance for the land application site. ( )

ii. Pretreatment requirements and procedures. ( )

iii. Operating season for land application. ( )

iv. Seasonal closeout procedures. ( )

v. Special soils or vegetative amendments. ( )

vi. Storm water run-on/run-off controls. ( )

vii. Best management practices for all areas impacted by the land application system.

( )

viii. A topographic map of the land application site and adjacent affected areas, of sufficient scale to facilitate site-specific analysis of soils, vegetation, surface water and ground water. ( )

b. Chemical, physical, and volumetric characteristics of the process water to be land applied. ( )

c. A complete description of the chemical and physical characteristics of the soils and applicable geology of the land application site. ( )

d. Methods of process water treatment, distribution and disposal. ( )

e. Hydraulic loading capacity of the soils. ( )

f. Constituent loading capacity of the site. ( )

g. Attenuation capacity of the vegetative covers and soils. ( )

h. Evapotranspiration capacity of the site. ( )

i. Testing and analytical procedures for water quality and soils samples prior to, during, and following the land application process. ( )

j. Trend analysis of the constituent loading in the affected soils, vegetation and water quality of the affected surface or ground water systems. ( )

k. Reporting requirements including both frequency and form. ( )

l. Standby power and pumps sufficient to maintain all treatment and distribution works. ( )

11. Temporary or Seasonal Closure. Temporary and seasonal closure plans for the entire cyanidation facility must be submitted by an applicant to the Department for review and approval prior to issuance of a final permit. Temporary and seasonal closure plans may, subject to Department approval pursuant to Section 750, be modified to provide for changes in operating conditions of the facilities and must incorporate a water management plan for the period of inactivity as well as during shut down and reactivation. ( )

a. Prior to seasonal closure, process buildings, process chemical storage, process water ponds, tailing ponds, spent ore disposal areas and other ancillary facilities must be stabilized and/or conditioned to prevent any emergency or unauthorized discharges to surface or ground water. ( )

b. Subsequent to seasonal closure, process buildings, process chemical storage, process water ponds, tailings ponds, spent ore disposal areas and other ancillary facilities must be

maintained to prevent any emergency or unauthorized discharges to surface or ground water. Cyanidation facilities shall be conditioned and maintained to provide: ( )

i. Material stabilization for all solids affected by process waters. ( )

ii. Optimum freeboard in all ponds, as dictated by the water management plan. ( )

iii. Fully functional power and pumping systems that are ready for use; both power and pumps shall have incorporated redundant systems to allow for failure of either power or a pumping system. A failed power supply or pump is not an acceptable reason for an unauthorized discharge. ( )

iv. Protection of all primary and secondary containment. ( )

v. Sufficient availability of qualified staff to restrict public access, fully implement the water quality monitoring plan, and initiate the emergency and spill response plan. ( )

12. Employee Education Program. Operators and staff of facilities must be properly oriented and trained to operate, maintain and protect primary and secondary containment systems; waste disposal and discharge systems; and to implement monitoring and emergency and spill response plans. An applicant must submit an employee orientation and continuing training plan to the Department for review prior to issuance of a final permit. The plan must provide the format and contents for training, the general qualifications of the person(s) responsible for training and testing, and the person(s) or positions which should receive such training. ( )

201. -- 299. (RESERVED).

300. APPLICATION PROCESSING PROCEDURE.

01. ~~*Substantially Incomplete*~~ Application~~s~~ Processing Time Line for Director's Final Decision. ~~*An application which does not, on its face, include all the requirements of Subsection 100.03, except as provided in Subsection 100.04 of these rules, will be returned to the applicant with a written list of the missing items.*~~ A chart illustrating the application processing time line is located in Appendix A of these rules. ~~*(7-1-97)*~~( )

02. Completeness Review. Within thirty (30) days of receipt of an application, the Department will issue a written notice to the applicant and the Idaho Department of Lands, indicating: ( )

a. That the application is complete; or ( )

b. That the Department is rejecting the application as incomplete and shall provide a list of deficiencies. Upon determination that the application is incomplete, the Department shall refund one half (1/2) of the application fee. ( )

03. Accuracy and Protectiveness Review. Within sixty (60) days of receipt of an application and upon determination by the Department that the application is complete, the

Department will review the application for accuracy and protectiveness based on these and other applicable rules including, but not limited to, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," and IDAPA 58.01.11, "Ground Water Quality Rule". ( )

02~~3~~4. ~~*Decision*~~ Notice of Intent to Deny the Permit Application or to Draft a Permit. ~~*(12-31-91)*~~

~~***a.*** *Except as provided in Subsection 300.01, w*~~Within sixty (60) days of receipt of an application for a new permit or to modify an existing permit, the Director shall: ( )

a. ~~*issue to the applicant and to the Idaho Department of Lands a*~~ Provide public notice of intent to deny ~~*a*~~ the permit application; or ( )

b. Provide public notice that the Director has determined that ~~*an*~~ the application is complete and the Director intends to draft a permit, is seeking public comment, and will hold at least one (1) public meeting on the draft permit in accordance with Section 400. ~~*Except as provided in Subsection 300.01, within thirty (30) days of receipt of an application for a small cyanidation processing facility or a pilot facility, the Director shall issue to the applicant a notice of intent to deny or draft a permit.*~~ ~~*(7-13-05)T*~~( )

~~***b.*** *The Director may suspend the running of the sixty (60) or thirty (30) day period for no more than thirty (30) days by requesting more detailed information necessary to ensure completeness and accuracy of an application, or the applicant may suspend the running of the sixty (60) or thirty (30) day period by written request to the Director. Upon receipt of the required information by the Director, the sixty (60) or thirty (30) day period will resume.* *(7-1-97)*~~

~~***c.*** *A notice of intent to deny the permit application shall follow the same procedures as a draft permit issued under this section.* *(12-31-91)*~~

03~~5~~. Basis for Permit Application Denial. The Director shall deny a ~~*draft or final*~~ permit application if: ~~*(1-1-88)*~~( )

a. The application is inaccurate or incomplete; (1-1-88)

b. The cyanidation facility as proposed cannot be conditioned for construction, operation, and closure ~~*to protect beneficial uses of the waters of the state.*~~ so as to comply with applicable state law; or ~~*(7-13-05)T*~~( )

c. The applicant has not submitted the appropriate fees. ( )

04~~6~~. Permit Fact Sheet. The Director shall prepare a fact sheet, for each denial or draft permit, which briefly states the principal facts and the significant legal and policy questions considered in the Director's decision. The fact sheet shall include, when applicable:
~~*(1-1-88)*~~( )

a. A brief description of the proposed cyanidation facility and the operating plan.

(7-13-05)T

b. A brief summary of the basis for the decision, including references to applicable requirements and supporting materials. (1-1-88)

c. Reasons why any requested conditions or alternatives to required standards do or do not appear justified. (1-1-88)

~~***d.*** *A description of the procedures for reaching a final decision, including:* *(1-1-88)*~~

~~*i.* *The beginning and ending dates of the public comment period;* *(1-1-88)*~~

~~*ii.* *The address where comments will be received during the comment period;* *(1-1-88)*~~

~~*iii.* *Any other procedures by which the public may participate in the final decision;* *(1-1-88)*~~

~~**e**~~**d.** The name and phone number of the agency representative to contact for additional information. (1-1-88)

301. -- 399. (RESERVED).

400. PUBLIC INVOLVEMENT IN PERMIT PROCEDURES.

01. Public Notice of Permit Actions. No public notice is required when a request for a permit modification ~~*or revocation*~~ is denied. The Director shall give public notice of: ~~*(1-1-88)*~~(____)

a. Receipt of an application for a permit; (1-1-88)

b. Any public meeting schedule; (1-1-88)

c. Issuance of a draft permit or a decision to deny the application for a permit; and ~~*(1-1-88)*~~(____)

d. An appeal that has been ~~*granted*~~ filed. ~~*(1-1-88)*~~(____)

02. Public Notice Information. All public notices shall contain the name and address of the Department's office processing the permit action, where the application and draft permit will be available for public review, and a brief description of the public involvement procedures. (1-1-88)

03. Serving the Public Notice. Public notice of permit actions shall be given by the following methods: (1-1-88)

a. By mail to: (1-1-88)

i. The applicant; (1-1-88)

ii. Persons on a mailing list who request to be notified; and ~~*(1-1-88)*~~( )

iii. Other appropriate federal, tribal, state and local government ~~*authorities;*~~ entities. ~~*(1-1-88)*~~( )

b. Publication in a daily or weekly major newspaper of general circulation in the area of the proposed cyanidation facility; and ~~*(7-13-05)T*~~( )

c. Any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected. (1-1-88)

04. Participation by Idaho Department of Lands. The Department shall formally request that the Idaho Department of Lands participate in the public meeting with respect to performance criteria for permanent closure. ( )

04~~5~~. Public Comment(s), Public Comment Period, and Public Meetings. ~~*(7-1-93)*~~( )

a. Within thirty (30) days after the Director's decision to draft a permit, the Department shall hold a public meeting. Oral or written comments may be submitted by any person at ~~*a*~~ the public meeting. ~~*Such meeting may be held prior to a draft permit or notice of intent to deny a permit, if the Director finds twenty-five (25) individuals, or one (1) organization representing twenty-five (25) or more members, who request a public meeting based on a water quality issue and related to the technical merits of the application. The request shall be made in writing within ten (10) days following public notice of a receipt of an application for a permit.*~~ The meeting may be presided by agency personnel appointed by the Director. ~~*Any person wishing to submit oral comments must sign up prior to the meeting. Oral commentaries will receive equal time to submit oral comments. To be considered in the final decision, oral*~~ In order for the Department to address public comments in its Response to Public Comments pursuant to Subsection 450.03., comments must be submitted in writing within ~~*five (5) days following the public meeting*~~ sixty (60) days after the Director's decision to draft a permit. ~~*(1-1-88)*~~( )

b. ~~*Within thirty (30) days of public notice of a draft permit or decision to deny an application for a permit, any person may submit written comments to the Department on issues raised in the notice, draft permit or decision to deny a permit. Pursuant to Section 39-106, Idaho Code, the Director has inherent authority to take oral comment on a draft permit at his discretion.*~~ From the time an application is received, until sixty (60) days after issuance of the notice pursuant to Subsection 300.04., the public may provide written comments. All written comments submitted during this public comment period shall be considered by the Director. ~~*(1-1-88)*~~( )

~~***c.*** *All written comments shall be considered by the Director in making the final decision.* *(1-1-88)*~~

401. -- 449. (RESERVED).

450. FINAL PERMIT DECISION.

01. Issuance. Within sixty (60) days after the close of the public comment period, the Director shall either issue or deny a permit, or major modification of a permit. Provided however, that if weather conditions prevent the Director from inspecting the proposed or existing cyanidation facility site to obtain information needed to approve or reject a submitted application, he may, in writing to the applicant, extend the time not to exceed thirty (30) days after weather conditions permit such inspection. ( )

0~~1~~2. ~~*Issuing*~~ Notification of the Decision. ~~*Within thirty (30) days after the close of the written public comment period on a draft permit, the Director shall issue a final permit decision.*~~ The Director shall notify the applicant and each person who requested notice of the final permit decision. This notice shall include reference to the procedures for administrative appeal under Section ~~*996*~~003. For the purpose of this section, a final permit decision means a final decision to issue, deny, modify, or revoke a permit. ~~*(1-25-95)*~~( )

0~~2~~3. Response to Public Comments. All written comments and information received during the comment period, together with the Department's final permit decision and the response to relevant written comments shall be made available to the public at the time the Director issues the final permit decision. This response shall: ~~*(1-1-88)*~~( )

a. Specify any differences between the final permit decision and the draft permit and state the reasons for those differences; ~~*(1-1-88)*~~( )

b. Briefly describe and respond to all relevant written comments on the draft permit or denial. (1-1-88)

04. Basis for Permit Denial. The Director shall deny a permit if: ( )

a. The application is incomplete or inaccurate; ( )

b. The cyanidation facility as proposed cannot be conditioned for construction, operation, and closure so as to comply with applicable state law; or ( )

c. The Idaho Department of Lands has determined that the permanent closure plan does not meet the requirements of Chapter 15, Title 47, Idaho Code. ( )

0~~3~~5. Immediate Effect of the Permit. A valid permit authorizes the construction and operation of a cyanidation facility. (1-1-88)

~~***04. Duration of Permit***~~. ~~*A permit shall remain valid until the Director determines permanent closure is completed, or until such time as the permit is revoked or modified.*~~ ~~*(1-1-88)*~~

~~***05. Duration of a Small Cyanidation Processing Facility Permit***~~. ~~*A permit for a small cyanidation processing facility shall remain valid only until the Director determines:*~~ ~~*(7-13-05)T*~~

~~a. Permanent closure is completed; or (7-1-97)~~

~~b. The lifetime allotment of one hundred twenty thousand (120,000) tons of processed ore is reached; or (7-1-97)~~

~~c. The cyanidation facility no longer qualifies as a small cyanidation processing facility; or (7-13-05)T~~

~~d. One (1) person or applicant concurrently holds more than one (1) permit for a small cyanidation processing facility where the facilities are located within ten (10) miles of each other; or (7-13-05)T~~

~~e. Operations must cease, temporarily or permanently, due to a violation of the Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," or adverse impacts to the beneficial uses of the water of the state; or (7-1-97)~~

~~f. To revoke or modify the existing permit. (7-1-97)~~

~~06. Duration of the Pilot Facility Permit. The permit to operate a pilot facility is valid: (7-1-97)~~

~~a. For one (1) year from date of issuance for a facility conducting a single test; or (7-1-97)~~

~~b. For two (2) years from date of issuance for a facility conducting multiple tests; or (7-1-97)~~

~~c. Until revoked or modified by the Department; or (7-1-97)~~

~~d. Until the facility no longer qualifies as a pilot facility. (7-1-97)~~

451. -- 499. (RESERVED).

500. PERMIT ~~ISSUANCE AND~~ CONDITIONS.

~~01. Issuance. Within sixty (60) days of the Director's final determination to issue a permit, the Department shall write and issue the permit subject to considerations of the contents of the application, public comments, and responses to those public comments. (7-13-05)T~~

~~02. Conditions.~~ The following conditions shall apply to and be specified in all permits: ~~(7-13-05)T~~( )

~~a~~**01.** **Compliance Required**. The applicant or permittee shall comply with all conditions of the permit. ~~However, the permit~~ Issuance or possession of a permit issued according to these rules shall not relieve the applicant or permittee of the responsibility to comply with all other applicable local, state, and federal laws. ~~(1-1-88)~~( )

~~***b. Construction and Operation of Cyanidation Facility**. The permittee shall ensure that construction, operation and maintenance of the cyanidation facility proceed according to the approved design plans and specifications and the approved operating and closure plans.*~~
~~*(7-13-05)T*~~

~~*c*~~**02. ~~*As Built*~~ Record Plans and Specifications**. ~~*Complete and accurate*~~ A professional engineer registered in the state of Idaho must confirm in writing that all record drawings and specifications~~, signed by a registered, professional engineer depicting actual construction shall~~ are complete and accurate. These record plans and specifications must be submitted by the permittee to the Director within thirty (30) days after the completion of the construction of each critical phase of facility development as approved by the Department. The record plans and specifications must be accompanied by a final construction report. ~~*Alternatively, i*~~If the construction proceeded in substantial compliance with the approved plans and specifications, a statement to the effect may be submitted by the registered, professional engineer.
~~*(1-1-88)*~~( )

~~*d*~~**03. Provide Information**. The permittee shall furnish to the Director within a reasonable or specified time~~,~~ any information, including copies of records required by the permit or other applicable rules, which the Director may reasonably require to determine whether cause exists for modifying or revoking the permit or to determine compliance with the permit or other applicable rules. ~~*(1-1-88)*~~( )

~~*e*~~**04. Notifications**. After initial construction~~,~~ and seasonal and/or temporary closure, the permittee shall, within ~~*seven*~~ thirty (~~*7*~~30) days, provide written notice to the Director of ~~*operation start-ups*~~ the permittee's intentions to commence or restart operations. At least thirty (30) days prior to completion of operations, and/or temporary or seasonal operations, ~~*T*~~the permittee shall ~~*provide written notice*~~ notify the Director of the permittee's intentions to temporarily, seasonally or permanently close operations. Notification shall provide sufficient ~~*to allow*~~ time for the Director to ~~*inspect all seasonal, temporary and permanent closures*~~ provide pre-operational or post-operational inspections, as necessary. ~~*(1-1-88)*~~( )

~~*f*~~**05. Entry and Access**. The permittee shall allow the Director, or a designee obligated by agreement with the Director to comply with the confidentiality provisions of Section 39-111, Idaho Code, to: (1-1-88)

~~*i*~~**a.** Enter at reasonable times upon the premises of a permitted cyanidation facility or where records required by a permit are kept; (7-13-05)T

~~*ii*~~**b.** Have access to and copy at reasonable times any records that must be kept under the conditions of the permit; (1-1-88)

~~*iii*~~**c.** Inspect at reasonable times any cyanidation facility, equipment, practice, or operation permitted or required by the permit; (7-13-05)T

~~*iv*~~**d.** Sample or monitor at reasonable times, substance(s) or parameter(s) directly related to permit or regulation compliance. (1-1-88)

~~g~~**06.** **Reporting**. It shall be the permittee's responsibility to report to the Director: (1-1-88)

~~i~~**a.** Orally, as soon as possible but no later than twenty-four (24) hours from the time the permittee knows or should reasonably know of any noncompliance which may endanger the public health or the environment. (1-1-88)

~~ii~~**b.** In writing, within five (5) working days from the time a permittee knows or should reasonably know of any event which may be or which may result in a violation of these rules, or Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," or IDAPA 58.01.11, "Ground Water Quality Rule". This report shall contain: ~~(7-13-05)T~~( )

~~(1)~~i. A description of the event and its cause; if the cause is not known, steps taken to investigate and determine the cause; (1-1-88)

~~(2)~~ii. The period of the event including, to the extent possible, the individual(s) involved in the incident(s) and the time(s) and date(s) of the incidents; ~~(1-1-88)~~( )

~~(3)~~iii. Measures taken to mitigate or eliminate the event and protect the public health; and ~~(1-1-88)~~( )

~~(4)~~iv. Steps taken to prevent recurrence of the event~~;~~. ~~(1-1-88)~~( )

~~iii~~**c.** In writing, confirmation of any conditions which may result in violation of any permit condition~~;~~. ~~(1-1-88)~~( )

~~iv~~**d.** In writing, when the permittee knows or should reasonably know of ~~*material*~~ relevant facts not submitted or incorrect information submitted in a permit application or any report or notice to the Director or the Department. Those facts or the correct information shall be included as a part of this report. ~~(1-1-88)~~( )

~~h~~**07. Discharge Response**. If an unauthorized discharge occurs the permittee shall implement the Department approved emergency and spill response plan~~:~~. ~~(1-1-88)~~( )

~~*i. Report the event(s) pursuant to the reporting requirements under Subsection 500.02.g. of these rules;* (7-13-05)T~~

~~*ii. Implement the approved discharge response strategy.* (1-1-88)~~

~~i~~**08. Temporary or Seasonal Closure Plans**. ~~*In the event of*~~ Prior to temporary or seasonal closure, the permittee shall submit a temporary or seasonal closure plan to the Director for approval. The plan shall describe the procedures, methods, and schedule to be implemented for the treatment and disposal of process water and pollutants, the control of drainage from the cyanidation facility, the control of drainage from the surrounding area, and the secure storage of chemicals during the period of closure. Within thirty (30) days of receiving the plan, the Director

shall approve and/or suggest modifications necessary to protect the waters of the state. The permittee shall ensure that closure complies with an approved plan. In no case shall the permittee complete temporary or seasonal closure prior to implementation of the approved plan. Facilities may not be temporarily or seasonally closed for a period longer than two (2) years unless approved by the Director. ~~(7-13-05)T~~( )

~~j~~**09.** **Begin Construction**. If the permittee fails to begin construction of a cyanidation facility within ~~two~~ one (~~2~~1) year~~s~~ of the effective date of the permit, ~~the Director may void~~ the permit ~~and require a new application~~ will be deemed void. ~~(7-13-05)T~~( )

~~k~~**10.** **Permanent Closure**. The permanent closure plan, as approved by the Idaho Department of Environmental Quality in coordination with the Idaho Department of Lands, shall be incorporated by reference into the Department-issued permit as a permit condition and shall be enforceable as such. The Department may evaluate permanent closure based on different performance standards than those used by the Idaho Department of Lands. ~~(7-13-05)T~~( )

501. COMPLETION OF PERMANENT CLOSURE.

01. Implementation of a Permanent Closure Plan. Unless otherwise specified in the approved permanent closure plan, ~~an operator~~ the permittee must begin implementation of the approved permanent closure plan: ~~(7-13-05)T~~( )

a. Within one (1) year of the final addition of cyanide to the ore processing circuit for pilot or small cyanidation processing facilities; or (7-13-05)T

b. Within two (2) years of the final addition of cyanide to the ore processing circuit for all other cyanidation facilities; or (7-13-05)T

c. If the product recovery phase of the cyanidation facility has been suspended for a period of more than two (2) years. (7-13-05)T

02. Submittal of a Permanent Closure Report. The ~~operator~~ permittee shall submit a permanent closure report to the Department for review and approval. A permanent closure report shall be of sufficient detail for the directors of the Idaho Department of Environmental Quality and the Idaho Department of Lands to issue a determination that permanent closure, as defined in Section ~~002~~007 of these rules, has been achieved. The permanent closure report shall address: ~~(7-13-05)T~~( )

a. The effectiveness of material stabilization. (7-13-05)T

b. The effectiveness of the water management plan and adequacy of the monitoring plan. (7-13-05)T

c. The final configuration of the cyanidation facility and its operational/closure status. (7-13-05)T

d. The post-closure operation, maintenance, and monitoring requirements, and the

estimated reasonable cost to complete those activities. (7-13-05)T

e. The operational/closure status of any land application site of the cyanidation facility. (7-13-05)T

f. Source control systems that have been constructed or implemented to eliminate, mitigate, or contain short and long term discharge of pollutants from the cyanidation facility, unless otherwise permitted. (7-13-05)T

g. The short and long term water quality trends in surface and ground water through the statistical analyses of the existing monitoring data collected pursuant to the ore processing by cyanidation permit. (7-13-05)T

h. Ownership and responsibility for the cyanidation facility during the defined post-closure period. (7-13-05)T

i. The future beneficial uses of the land, surface and ground waters in and adjacent to the closed facilities. (7-13-05)T

j. How the permanent closure of the cyanidation facility complies with the Resource Conservation and Recovery Act, Hazardous Waste Management Act, Solid Waste Management Act, and appropriate rules. (7-13-05)T

(BREAK IN CONTINUITY OF SECTIONS)

503. -- ~~649~~549.(RESERVED).

550. VALIDITY AND DURATION OF PERMITS.
A permit shall remain valid until the Director determines that permanent closure is completed or the Director revokes or modifies the permit. ( )

551. -- 649. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

750. PERMIT MODIFICATION.

01. Cause for Permit Modification. Causes for permit modification are: (1-1-88)

a. A material modification or material expansion in the cyanidation facility operation, design or closure plan. (7-13-05)T

b. Natural phenomena substantially different from those anticipated in the original permit. (1-1-88)

02. Modification at Request of Permittee. Requests for modification from the permittee shall include: (1-1-88)

a. A written description of the modification(s); (1-1-88)

b. Data supporting the modification request; (1-1-88)

c. Causes and anticipated effects of the modification. (1-1-88)

03. Modification at Request of Director. Pursuant to Subsection 750.01, if the Director determines that cause exists for permit modification, the Director shall notify the permittee in writing and request information necessary for the Director to modify the permit. (12-31-91)

04. Modification Procedure. The Director shall evaluate the request for a permit modification, based on the information provided in Subsection 750.02 or otherwise obtained by the Department, and determine if the modification requires a major permit modification or a minor permit modification. Major ~~*P*~~permit modifications shall ~~*follow the application processing, public involvement, and administrative appeal procedures of these rules*~~ be subject to the provisions of Sections 100, 200, 300, 400, and 450. Minor permit modifications shall not be subject to the provisions of Sections 100, 300 and 400. The permittee shall notify and receive approval from the Department prior to making minor modifications. ~~*(1-1-88)*~~( )

05. Major Permit Modifications. Changes that require a major permit modification include but are not limited to: ( )

a. Material modifications or material expansions to a cyanidation facility as defined by these rules; or ( )

b. A significant increase or decrease in the time the cyanidation facility is expected to be in operation. ( )

c. Requests to modify or change water quality compliance criteria and/or water quality compliance monitoring points. ( )

06. Minor Permit Modifications. Minor permit modifications are those which, if granted, would not result in any increased hazard to the environment or to the public health. Within thirty (30) days of receipt of a written request for a minor modification, the Department shall complete an evaluation of the request and either approve or deny the request in writing. Minor modifications may include but are not limited to: ( )

a. The correction of typographical errors in an approved permit. ( )

b. Legal transfer of ownership or operational control. ( )

c. A change in the requirements for monitoring or reporting frequency of the quality or quantity of the project air, water or waste generated. ( )

d. A change in the cost estimates submitted by a permittee to the Idaho Department of Lands to complete permanent closure. ( )

e. A change or modification that is required by a state or federal requirement that supersedes the authorities of these rules. ( )

751. -- 799. (RESERVED).

800. TRANSFER OF PERMITS.

01. Transfer of Permits Allowed. A permit ~~*may*~~ shall be ~~*automatically*~~ transferred to a new permittee if such permittee provides written notice to the Director containing: ( )

a. ~~*a*~~A specific date for transfer of permit responsibility, coverage, and liability between the ~~*old*~~ current and new permittees~~*, no later than ten (10) days after the date of closure*~~. ~~*(1-1-88)*~~( )

b. Demonstration that the new permittee has established appropriate financial assurance for permanent closure of the facility; and ( )

c. The information required in Subsections 100.03.b., 100.03.d., 100.03.e. and 100.03.g. ( )

02. Decision. The Director shall either approve of or deny the transfer of the permit within thirty (30) days of receipt of notice that the current permittee wishes to transfer the permit to a new permittee. ( )

03. Basis for Permit Denial. The Director shall deny the request for the permit transfer if the new permittee has not provided the information required in Subsection 800.01. ( )

(BREAK IN CONTINUITY OF SECTIONS)

901. -- ~~*949*~~999.(RESERVED).

~~***950. PUBLIC AND CONFIDENTIAL INFORMATION.***~~

~~***01. Public Inspection****. Except as provided in this section or other applicable law, information obtained or submitted pursuant to these rules will be available to the public for inspection and copying during normal working hours. Anyone requesting Department assistance in collecting, copying or mailing public information must tender, in advance, the reasonable cost*~~

~~*of those services.* (1-1-88)~~

~~***02. Trade Secrets Not Subject to Inspection**. Information concerning a pollution source and submitted to the Department pursuant to these rules which, as certified by the owner or operator of such source, relates to production or sales figures or to processes or production unique to the owner or operator, or tends to adversely affect the competitive position of such owner or operator, may be disclosed only to the Board, the Director and the Hearing Officer unless:* (1-1-88)~~

~~***a.** The Board, after a hearing, determines that a claim of uniqueness or adverse affect is unwarranted;* (1-1-88)~~

~~***b.** The owner or operator expressly consents to disclosure; or* (1-1-88)~~

~~***c.** Disclosure is required for prosecution of a violation of the Idaho Environmental Protection and Health Act.* (1-1-88)~~

~~***03. Other Information Not Subject to Inspection**. The Department may decline to release to the public:* (1-1-88)~~

~~***a.** Inconclusive preliminary data or reports generated as part of ongoing studies; and* (1-1-88)~~

~~***b.** Information obtained as part of ongoing investigations when release would:* (1-1-88)~~

~~*i. Interfere with enforcement proceedings;* (1-1-88)~~

~~*ii. Deprive a person of a fair or impartial adjudication;* (1-1-88)~~

~~*iii. Discourage informants from disclosing information to the Department;* (1-1-88)~~

~~*iv. Disclose investigative techniques or proceedings; or* (1-1-88)~~

~~*v. Endanger the safety of Department personnel.* (1-1-88)~~

951. -- 995. (RESERVED).

~~*996.*~~ *- Section 996 has been moved and renumbered to Section 003*

~~*997.*~~ *- Section 997 has been moved and renumbered to Section 006*

~~***998. INCLUSIVE GENDER AND NUMBER.***~~
~~*For the purposes of these rules, words used in the masculine gender include the feminine, or vice versa, where appropriate.* (12-31-91)~~

~~***999. SEVERABILITY.***~~

~~*Idaho Department of Environmental Quality Rules, IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation," are severable. If any rule, or part thereof, or the application of such rule to any person or circumstance, is declared invalid, that invalidity does not affect the validity of any remaining portion of the chapter.* (1-1-88)~~

APPENDIX A

Application Processing Time Line for Director's Final Decision

IDAPA 58.01.13, Rules for Ore Processing by Cyanidation

The following chart illustrates the time line for processing a permit application and references the corresponding sections from IDAPA 58.01.13.